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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,806	07/17/2003	David Randall Blea	TUC920030018US1	1456

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KONRAD RAYNES & VICTOR, LLP.
ATTN: IBM37
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS, CA 90212

EXAMINER

ROSE, HELENE ROBERTA

ART UNIT	PAPER NUMBER
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2163

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/621,806	Applicant(s) BLEA ET AL.	
	Examiner Helene R. Rose	Art Unit 2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/5/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/6/04 & 7/17/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. In response to communications filed on 9/5/2006, in which claims 1-20, are presently pending. Claims 1,5,8,12,15 and 19 were amended in response to communication submitted on 5/31/2006; also no claims were cancelled nor added.

2. Applicant's arguments filed on 9/5/2006 have been fully considered (MPEP 714.04; 37 CFR 1.111) in which Claims 1-20 are pending in the application.

Examiner withdraws the final rejection that was mailed on 7/5/2006, in which claims 1-20 were rejected under 35 U.S.C. 103(a) as being obvious over SEGEV et al. (U.S. Patent No. 6,848,021) in view of GOIFFON et al. (U.S. Patent No. 6,226,792), wherein SEGEV was disqualified, due to a response filed on April 11, 2006, wherein Applicant attached a Declaration signed by Dale M. Crockatt that declares that U.S. Patent Application No. 10/621,806 and U.S. Patent No. 6,848,021 were, at the time the invention of U.S. Patent Application No. 10/621,806 was made, owned by International Business Machines Corporation.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 2/06/2004 & 7/17/2003, accordingly, the information disclosure statement is being considered by the examiner. An initialed and dated copy of Applicant's IDS form 1449; is attached to the Instant Office Action:

Claim Rejections-35 U.S.C 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-7, 9-13 and 16-20 are rejected under 35 U.S.C. 103(a) as being obvious over LINDE et al. (US Patent No. 6,799,258) in view of GOIFFON et al (US Patent No. 6,226,792).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Claims 1, 8, and 15:

Regarding claims 1, 8, and 15, LINDE teaches a method for creating a copy services solution, comprising:

receiving a document describing the copy services solution **wherein the copy services solution describes one or more base copy service solutions described with base copy types** (column 9, lines 23-25 and 25-28, wherein the storage domain server receives a read or write request from, e.g., an application server, and wherein a method of performing a write to the source volume, a method of performing a write to the point-in-time volume and column 9, lines 62-67, wherein Point-in-time volumes are general-purpose volumes from which data can be read, wherein a method of reading from a point-in-time volume begins at step 760, and the data chunk associated with the data block to be read is determined, wherein a migration table 610 is used to determine whether the data chunk to be read has

been copied to the related point-in-time volume and if the data chunk has been copied, control jumps to step 768, otherwise control proceeds to step 766, LINDE);

LINDE discloses all the limitations above. However, LINDE does not disclose wherein **an event and an action to be performed for that event and wherein the document is not directly executable**. On the other hand, GOIFFON discloses **an event and an action to be performed for that event and wherein the document is not directly executable** (column 14, lines 12-18, wherein the service reads the elements from a file and write them into the EIS, wherein the service includes the Ignore, Overwrite, and Create New Version options which is equivalent to an actions to be performed, the service is then called by scripts executing on either the Client Server or the Script Server, which is interpreted to be wherein the document is not directly executable, GOIFFON).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to modify LINDE system to include wherein the document comprises an Extensible Markup Language document (column 7, lines 31-34, wherein file structures are a format into which a file is arrange by computer, GOIFFON). A skilled artisan would have been motivated to do so by using Extensible Hypertext Language within a document because it provides structure to a document, its readable, wherein it has the ability to represent the most general data structures such as list and trees and most importantly its heavily used as a format for document storage.

converting the document to executable code (column 8, lines 16-21, wherein converts business applications into code, GOIFFON); and

executing the code to perform **the** one or more base copy services solutions described with base copy types in the document (column 12, lines 65-67, wherein to perform read/write operations on the source volume or point in time volume, LINDE).

Claims 2, 9, and 16:

Regarding claims 2, 9, and 16, the combination of LINDE in view of GOIFFON teaches wherein the document comprises an Extensible Markup Language document (column 7, lines 31-34, wherein file structures are a format into which a file is arrange by computer, wherein export/import exchanges are

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accompanied using self-defining intermediate file structures of the type utilized by various export/import standards such as extensible markup language. GOIFFON).

Claims 3, 10, and 17:

Regarding claims 3, 10, and 17, the combination of LINDE in view of GOIFFON teaches wherein the document describes a session comprising one or more sequences (column 7, lines 12-17 and column 65-67, wherein one or more elements are created that define each of the tools, GOIFFON) and wherein each sequence represents a base copy type (column 19, lines 11-19, GOIFFON).

Claims 4, 11, and 18:

Regarding claims 4, 11, and 18, the combination of LINDE in view of GOIFFON teaches wherein at least one sequence includes characteristics for the base copy type represented by that sequence (column 22, lines 42-44, GOIFFON).

Claims 5, 12, and 19:

Regarding claims 5, 12, and 19, the combination of LINDE in view of GOIFFON teaches wherein at least one sequence includes an event (column 29, lines 18-31, wherein a match is found and its and duplicate of the first word, GOIFFON) and **one or more actions** to be performed for that event (column 29, lines 32-50, wherein a action is performed by user and the process is repeated for each additional hierarchy, GOIFFON).

Claims 6 and 13:

Regarding claims 6 and 13, the combination of LINDE in view of GOIFFON teaches wherein converting the document to executable code further comprises:

deserializing the Extensible Markup Language document to form one or more classes (column 13, lines 52-57, GOIFFON), wherein each class includes data describing zero or more characteristics of a base copy type (column 22, lines 42-44, GOIFFON) and including zero or more methods representing actions to be performed for particular events (column 17, lines 47-50, GOIFFON).

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Claims 7, 14, and 20:

Regarding claims 7, 14, and 20, the combination of LINDE in view of GOIFFON teaches wherein converting the document to executable code (column 8, lines 19-22, GOIFFON) further comprises:

identifying a base copy services solution to implement for a base copy type described in the document (column 19, lines 1-6, GOIFFON).

Prior Art of Record

(The prior art made of record and not relied upon is considered pertinent to applicant's disclosure)

1. LINDE et al (US Patent No. 6,679,258) discloses a method and apparatus for point-in-time volumes are provided.
2. GOIFFON et al (US Patent No. 6,226,792) discloses an object management system is providing for managing, cataloging, and discovering various potentially reusable code and data components that exist within an Information Technology (IT) platform, and which each have well-defined interfaces with other components.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene R. Rose whose telephone number is (571) 272-0749. The examiner can normally be reached on 8:00am - 4:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Helene R Rose
Technology Center 2100
September 8, 2006

E. P. Allhouse

Primary Examiner